



**COUNTY ATTORNEY'S OFFICE
MEMORANDUM**

TO: Board of County Commissioners

THROUGH: Stephen P. Lee, Deputy County Attorney *[Signature]*

FROM: Lynn Vouis, Assistant County Attorney *[Signature]*

CONCUR: Pam Hastings, Administrative Manager/Public Works Department *[Signature]*
Kathleen Myer, Principal Engineer/Engineering Division *[Signature]*

DATE: March 22, 2005

SUBJECT: Second Amended Resolution of Necessity for Bunnell Road

It is necessary to amend Resolution of Necessity Nos. 2004-R-72 and 2005-R-5, of the Bunnell Road improvement project, which were approved and adopted by the Board of County Commissioners on April 13, 2004 and January 11, 2005, respectively.

The amendment changes the language in Section 5 and Section 4 of Resolution of Necessity Nos. 2004-R-72 and 2005-R-5, respectively. These sections describe the temporary construction easements to be acquired by the County, including the acceptable uses and duration of the easements. The original resolutions stated that the temporary easements would run for five years from the commencement of construction or ten years from the date of the resolution, whichever occurred first. Recent case law invalidated similar easements and this proposed change corrects the problem.

This amended resolution provides that the easement time period begins with the date of acquisition of the easement by the County and runs for no more than five (5) years. Upon approval of this amended resolution, this language will be added to all future resolutions.

This amended resolution will also correct the legal description for Parcel Number 728.

LV:krc

Attachment

Second Amended Resolution of Necessity
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**SECOND AMENDED RESOLUTION
(Bunnell Road)**

THE FOLLOWING RESOLUTION WAS ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SEMINOLE COUNTY, FLORIDA, AT ITS REGULARLY SCHEDULED MEETING OF _____, 2005.

WHEREAS, Bunnell Road (from west of Bunnell Road to West Towne Parkway) is an existing roadway through a developing area with a high volume of traffic; and

WHEREAS, this Second Amended Resolution of Necessity is necessary to amend Resolution of Necessity Numbers 2004-R-72, and 2005-R-5, that were approved and adopted by the Board of County Commissioners of Seminole County on April 13, 2004 and January 11, 2005, respectively; and

WHEREAS, the Board of County Commissioners of Seminole County desires to adopt a Second Amended Resolution for the Bunnell Road improvement project in order to modify Section 5 of Resolution of Necessity Number 2004-R-72, Section 4 of Resolution of Necessity No. 2005-R-5, of the previously adopted resolutions, and to correct the legal description for Parcel Number 728; and

WHEREAS, the existing right-of-way along Bunnell Road is inadequate for proper utilization as required by vehicular traffic volumes. Additional traffic lanes and improved drainage facilities are necessary to reduce safety hazards and improve traffic flow. The property hereinafter described is being acquired for use as right-of-way for new sections of roadway, additional traffic lanes and for improved drainage facilities on Bunnell Road to be used by the public in general. Said property hereinafter described is necessary for

roadways, rights-of-way, drainage facilities, and related facilities for the use of the general public including, but not limited to, rights-of-way, drainage facilities and other roadway improvements; and

WHEREAS, as established in Resolution Numbers 2004-R-72 and 2005-R-5, it is necessary, serves a County and public purpose, and is in the best interests of the citizens of Seminole County and the traveling public to widen the road and improve the appurtenant drainage facilities on or relating to Bunnell Road in order to enhance public transportation within Seminole County, to alleviate traffic congestion and to increase the safety of travel along said road; and

WHEREAS, Seminole County has heretofore caused the roadway's area of construction to be located and surveyed and has caused a right-of-way map for Bunnell Road to be prepared based upon and incorporating survey and location data; and

WHEREAS, an amended legal description of the parcel needed for the widening of Bunnell Road and improvement of its drainage system and other appurtenant systems have been prepared based upon aforementioned survey and location data and the right-of-way maps; and

WHEREAS, the Board of County Commissioners of Seminole County desires to adopt a Second Amended Resolution for Bunnell Road to amend the parcel herein described which is needed for improvements to the roadway and improvements of the drainage system on Bunnell Road.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SEMINOLE COUNTY, FLORIDA;

Section 1. The above recitals are adopted as findings and incorporated into the text of this Resolution.

Section 2. Section 5 of the Bunnell Road Resolution of Necessity Number 2004-

R-72 is hereby deleted and the following substituted therefore:

Section 5. *The interests sought to be condemned designated as Bunnell Road Parcel Nos. 701, 702, 704, 707, 709, 713, 717A, 717B, 718, 719, 728, 736, 737, and 745 are temporary construction easements. The County's use of these parcels is for the purposes of (1) constructing roadway and drainage improvements within public rights-of-way; (2) constructing or modifying driveways, walls, and other structures affected by the roadway construction but which are not within the public rights-of-way; (3) storage and marshalling of equipment and materials during the roadway construction project, and (4) demolishing or clearing any structures, improvements or other features required to be removed in order to construct the roadway and drainage improvements, with full authority to enter upon, grade, regrade, excavate or otherwise construct such improvements as may be agreed upon by County and the property owner, provided however, that County shall, at the end of the term of this easement, return the premises to the condition existing immediately before County began use of the premises, any improvements or alterations agreed to by the property owner and ordinary wear and tear excepted. County's rights under this easement*

shall commence on the day the easement rights are vested in the County through agreement or court order, and end five (5) years after that date.

Section 3. Section 4 of the Bunnell Road Resolution of Necessity Number 2005-R-5 is hereby deleted and the following substituted therefore:

Section 4. *The interest sought to be condemned designated as Bunnell Road Parcel No. 707 is a temporary construction easement. The County's use of this parcel is for the purposes of (1) constructing roadway and drainage improvements within public rights-of-way; (2) constructing or modifying driveways, walls, and other structures affected by the roadway construction but which are not within the public rights-of-way; (3) storage and marshalling of equipment and materials during the roadway construction project, and (4) demolishing or clearing any structures, improvements or other features required to be removed in order to construct the roadway and drainage improvements, with full authority to enter upon, grade, regrade, excavate or otherwise construct such improvements as may be agreed upon by County and the property owner, provided however, that County shall, at the end of the term of this easement, return the premises to the condition existing immediately before County began use of the premises, any improvements or alterations agreed to by*

*the property owner and ordinary wear and tear excepted.
County's rights under this easement shall commence on the
day the easement rights are vested in the County through
agreement or court order, and end five (5) years after that
date.*

Section 4. This Resolution amends Resolution of Necessity Number 2004-R-72, by deleting the legal description for Parcel Number 728 and substituting therefore the legal description for Parcel Number 728 attached hereto as Exhibit "A". The acquisition of the property described in Exhibit "A" (Parcel Number 728) attached hereto consisting of 1 page and identified as Exhibit "A", 000001, is hereby found to be necessary for said improvements to the extent of the estate or interest set forth as a part of the parcel description. The Board of County Commissioners of Seminole County hereby finds and determines that the acquisition of this parcel is necessary and serves a County and public purpose.

Section 5. This Resolution amends Resolution of Necessity Numbers 2004-R-72 and 2005-R-5, by amending the description for the temporary construction easements in Sections 5 and 4 respectively, and by amending the legal description for Parcel Number 728. The remaining provisions of Resolution of Necessity Numbers 2004-R-72 and 2005-R-5 are hereby ratified and affirmed.

ADOPTED this _____ day of _____, 2005.

ATTEST:

**BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA**

MARYANNE MORSE
Clerk to the Board of
County Commissioners of
Seminole County, Florida.

By: _____
CARLTON D. HENLEY, Chairman

Date: _____

For the use and reliance
Seminole County only. Ap-
proved as to form and legal
sufficiency.

As authorized for execution by the Board
of County Commissioners at its _____,
2005, regular meeting

County Attorney

LV/krc

TEMPORARY CONSTRUCTION EASEMENT

PROJECT: Bunnell Road

R/W PARCEL NO.: 728

A part of the property described in Deed Book 148, Page 27 as recorded in Public Records of Seminole County, Florida, being that portion of Section 20, Township 21 South, Range 29 East.

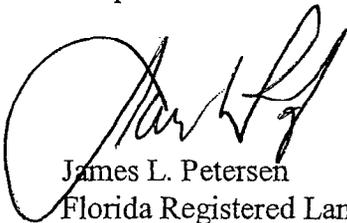
described as follows:

COMMENCE at the Southeast corner of Lot 64, McNeil's Orange Villa according to the plat thereof as recorded in Plat Book 2, Pages 99-101, Public Records of Seminole County, Florida; thence North $00^{\circ}02'57''$ East, a distance of 501.51 feet along the West Right-of-Way line of Eden Park Road and its northerly extension; thence departing said line, North $89^{\circ}57'03''$ West, a distance of 15.55 feet to the POINT OF BEGINNING; thence North $89^{\circ}57'03''$ West, a distance of 10.00 feet; thence North $00^{\circ}02'57''$ East, a distance of 23.08 feet; thence South $89^{\circ}57'03''$ East, a distance of 10.00 feet to the said Right-of-Way line; thence South $00^{\circ}02'57''$ West, a distance of 23.08 feet along said line to the POINT OF BEGINNING.

Containing 231 square feet, more or less.

The sketch for this description is shown on sheets 5 of 17 on the right-of-way maps for Bunnell Road.

I hereby certify that this description is true, accurate and complete to the best of my knowledge and is in compliance with the Minimum Technical Standards as set forth in Chapter 61G17-6 Florida Administrative Code.



James L. Petersen

Florida Registered Land Surveyor #4791

NOT VALID WITHOUT SURVEYOR'S EMBOSSED SEAL

Date 9/18/2003

Revised 01/14/2005

Southeastern Surveying & Mapping Corp.
6500 All American Boulevard
Orlando, Florida 32810
407-292-8580

EXHIBIT "A"
000001